(b) *Charge for unsuccessful search.* Ordinarily no charge for search time will be assessed when the records requested are not found or when the records located are withheld as exempt. However, if the requester has been notified of the estimated cost of the search time and has been advised specifically that the requested records may not exist or may be withheld as exempt, fees shall be charged.

(c) *Use of Debt Collection Act of 1982.* When a requester has failed to pay a fee charged in a timely fashion (*i.e.,* within 30 days of the date of the billing), HUD may, under the authority of the Debt Collection Act and part 17, subpart C of this title, use consumer reporting agencies and collection agencies, where appropriate, to recover the indebtedness owed the Department.

[53 FR 37552, Sept. 27, 1988]

§ 2002.15   Advance payments.

(a) HUD may not require a requester to make an advance payment, *i.e.,* payment before work is commenced or continued on a request, unless:

(1) HUD estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then, HUD will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) Where a requester has previously failed to pay a fee charged in a timely fashion (*i.e.,* within 30 days of the date of the billing), HUD may require the requester to pay the full amount owed plus any applicable interest as provided by § 2002.13(a) or demonstrate that he has, in fact, paid the fees, and to make an advance payment of the full amount of the estimated fee before HUD begins to process a new request or a pending request from that requester.

(b) When HUD acts under paragraph (a)(1) or (a)(2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial,

plus permissible extensions of these time limits) will begin only after HUD has received fee payments described in paragraph (a) of this section.

(c) Where it is anticipated that either the duplication fee individually, the search fee individually, or a combination of the two exceeds $25.00 over and above the free search time and duplication costs, where applicable, and the requesting party has not indicated in advance a willingness to pay so high a fee, the requesting party shall be promptly informed of the amount of the anticipated fee or such portion thereof as can readily be estimated. The notification shall offer the requesting party the opportunity to confer with agency representatives for the purpose of reformulating the request so as to meet that party's needs at a reduced cost.

[53 FR 37552, Sept. 27, 1988, as amended at 67 FR 47217, July 17, 2002]

§ 2002.17   Time limitations.

(a) Upon receipt of a request for records, the appropriate Assistant Inspector General or an appointed designee will determine within twenty (20) working days whether to grant the request. The Assistant Inspector General or designee will notify the requestor immediately in writing of the determination and the right of the person to request a review by the Inspector General of an adverse determination.

(b) The time of receipt for processing a request for records purposes is the time it is received by the appropriate office for review. If a request is misdirected by the requester, the Office of Inspector General or Department official who receives the request will promptly refer it to the appropriate office and will advise the requester about the delayed time of receipt.

(c) A determination with respect to a request for review by the Inspector General of HUD under § 2002.25 will be made within 20 working days after receipt and will be communicated immediately to the person requesting review.

(d) If the Office of Inspector General grants the request for records, the records will be made available promptly to the requester.